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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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analysis in its initial comments, since all of the information in its analysis was drawn from the applications that have been on file at the Commission for several years. In order to prevent dbX from gaining any advantage from its tardiness in filing the technical analysis in the reply round of comments, ORBCOMM requests that the Commission consider these supplemental comments responding to the dbX pleading.

In its Reply Comments, dbX repeats the allegations made in its initial comments concerning "competition" and "warehousing." ORBCOMM will not repeat its detailed response, which was incorporated in its Reply Comments,^{1/} other than to observe that NVNG service will face interservice competition from other terrestrial and satellite-based services, as well as intraservice competition among the current applicants (along with the potential for future entry) and among resellers as well.^{2/} Thus, the premise of dbX's Reply Comments, that there will be inadequate competition, is inaccurate.^{3/}

^{1/} See generally, ORBCOMM Reply Comments, May 26, 1993 at pp. 3-5, 6-7.

^{2/} Thus, dbX will be able to assume its role "as a purchaser of channels, a reseller or in some other capacity to be determined in the future." (dbX reply Comments at p. 1) Certainly nothing in the Commission's proposed Rules precludes such a role for dbX with one or more of the current applicants, and ORBCOMM fully intends to provide service on a wholesale basis to companies such as dbX.

^{3/} Much of dbX's criticism is based on a GAO study of the cellular industry as a "duopoly." While the cellular industry is in the best position to respond to that study, ORBCOMM observes that by all accounts, cellular service has been a very successful U.S. industry, creating thousands of jobs and exporting expertise (continued...)

In the Negotiated Rulemaking, the participants extensively discussed the issue raised by dbX -- accommodating future entry. The discussions concluded that future entry should be possible, although they also illustrated the difficulty of attempting to effectuate a coordination in a vacuum. That is, it was observed in the Negotiated Rulemaking that it is not possible to coordinate with hypothetical applicants that have not prepared detailed applications that meet all FCC requirements with respect to marketing plans, services, financial criteria, technical details and public interest considerations. The dbX Reply Comments serve to highlight again that attempts to reserve specific spectrum for hypothetical future applicants, whose systems could include as few as one to as many as 48 or more satellites, serve only to slow the availability of valuable new services to the public.^{4/} The Commission's existing processing group approach works well to avoid unnecessary delays and prevent misuse of the regulatory process to retard competitors.

In its comments in this proceeding, dbX associated itself with LEO One, a potential Mexico-based low-Earth orbit

^{3/}(...continued)

into operating cellular systems overseas. ORBCOMM believes that NVNG satellite service presents similar employment and balance of trade opportunities, but only if the U.S. does not lose its technology lead because of artificial regulatory delay.

^{4/} In addition, the dbX technical analysis highlights the difficulty of the task accomplished by the applicants, since the coordination must also take place in the context of sharing the relatively small amount of spectrum with the government users. E.g., dbX Reply Comments at A1-2, showing government usage of the spectrum.

services provider.^{5/} No details pertaining to the supposed LEO One System are available for review. At a recent presentation of its plan to the annual International Small Satellite Organization Conference, LEO One did not reveal the frequency bands within which it plans to operate or any other technical information. LEO One claims to be able to offer facsimile service, which normally requires voice capable channels. Since such a service would not be technically or economically feasible in the allocated NVNG spectrum, it can be assumed that use of frequencies different from those pertaining to this Rulemaking may be envisioned by LEO One. This serves as further evidence of the fruitlessness of attempting to accommodate and coordinate undefined future systems in the NVNG service.

In the Negotiated Rulemaking, several potential means of accommodating additional entry were identified. dbX, in its technical analysis, arbitrarily contends that the Rules must be constructed so as to accommodate one additional FDMA system, and one additional CDMA system, apparently both similar to the current applications.^{6/} In light of the fact that this is a new service, and the technology is continuing to evolve, it could very well be that if there are future applicants, they may propose systems vastly different than those proposed by the current applicants. New applicants could propose to utilize different channel bandwidths, or even different modulation

^{5/} dbX Reply Comments at n.2.

^{6/} dbX Reply Comments at p. 10.

schemes.^{7/} Moreover, it may be the case that at the upcoming World Radio Conferences, additional spectrum will be allocated on a global basis for NVNG satellite service.

Because of these uncertainties, the Commission should reject the proposal of dbX to incorporate into the Rules a rigid allocation scheme. Instead, the Commission should adopt its proposal, which will address frequency assignments in the licenses of the service providers, and require good faith negotiations between incumbents and new applicants in order to effect a coordination. The dbX proposal in its Reply Comments to craft sharing criteria in advance of any additional applications, and to "cast in concrete" the technical parameters in the Rules, should be rejected.

In addition to the general problem of dbX's proposal being an attempt to incorporate in the Rules a sharing plan, ORBCOMM has some specific disagreements with the technical analysis submitted in the dbX Reply Comments. For example, dbX baldly asserts that it would not be economically feasible for NVNG satellite systems to operate in both the UHF and VHF bands.^{8/} dbX does not attempt to document or quantify the "cost penalty," or provide any other basis for its claim. Thus, the dbX technical analysis arbitrarily rejects some possible means of accommodating future entry.

^{7/} For example, during the Negotiated Rulemaking, Leosat suggested that Space Division Multiple Access may be used as a modulation technique.

^{8/} dbX Reply Comments at n. 13 and A1-9.

The dbX proposal also arbitrarily excludes the potential for multiple applicants to share the same pool of channels using the Dynamic Channel Activity Assignment System ("DCAAS"). ORBCOMM believes that such sharing can be accommodated, and would look to a coordination as the appropriate forum for working out the details of such operations. Thus, there is no basis for the dbX proposal to arbitrarily reduce the number of channels available in the pool to 40. The Commission should reject the dbX proposal to incorporate in the Rules an arbitrary "default" frequency allocation scheme.^{9/}

Finally, dbX included in its Reply Comments an "Analysis of Coordination Process." That analysis reflects a misunderstanding of the proposed Rules. The licensees are already under a duty to negotiate with new applicants in good faith, with the Commission to determine the timing of such coordination. Moreover, the new applicant will clearly have an incentive to report to the Commission if there is an absence of good faith or a break down in the coordination process. Finally, the Commission has previously indicated a willingness to become involved in the coordination process if the parties are

^{9/} dbX also proposed a reduction in the spectrum available to ORBCOMM in the 137-138 MHz band, by reducing the channels from 18 to 15. ORBCOMM observes that when the current Metsat usage transitions to the areas where MSS is secondary, the total MSS primary spectrum remaining for other systems will exceed that requested for the ORBCOMM system (320 kHz used by the ORBCOMM system, 325 primary Metsat, 355 remaining). Apparently, dbX is unaware of the plan to migrate Metsat usage from channels in the center of the band to the lower and upper portions of the band by the Year 2000.

unsuccessful. Thus, there is no grounds for imposing a formal filing requirement to report on the progress of the coordination activities, or to otherwise modify the proposed Rules.

dbX also apparently misconstrues the proposed Rule that specifies that the current licensees are "not obligated to suggest changes or re-engineer an applicant's proposal in cases involving conflicts." This language is not intended to eliminate the obligation of a licensee to engage in a good faith effort to achieve coordination, but merely makes clear that the licensee is

with the government users. Thus, based on its own experiences, ORBCOMM believes that future applicants will have adequate information available to them, without the need for public disclosure of coordination agreements.

In sum, the dbX Reply Comments incorporated a technical analysis that could have, and should have been filed with dbX's initial comments. Had it done so, ORBCOMM could have included a showing in its Reply Comments that the dbX proposals are based on arbitrary and incorrect assumptions. The Commission should reject the dbX proposals to incorporate in the Rules a frequency assignment scheme. Instead, the Commission should allow the service to develop without unneeded rigidity, since there will be adequate competition, and the public interest will be well served by according this new service adequate flexibility during its development.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Laura E. Magner hereby certify that on the 18th day of June, 1993, a true copy of the foregoing Supplemental Comments of Orbital Communications Corporation was mailed, postage prepaid, to the following:


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